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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Wing-Kwong Keung
Serial No. 10/628,521
Filed: July 28, 2003
Confirmation No.: 5164
Title: CHILD-RESISTANT FLIP-TOP DISPENSING CLOSURE AND PACKAGE
Attorney Docket: 17853
Group Art Unit: 3781
Examiner: R. A. Hylton
In Response To: Office Actions Mailed April 6, 2006 and Apparently Mailed October 27, 2006



CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Diana Castillo
(Name of Person Making Deposit)

Diana Castillo
(Signature)

March 27, 2007
(Date)

PETITION TO ENTER PREVIOUSLY SUBMITTED AMENDMENT OR, IN THE ALTERNATIVE, TO REVIVE UNAVOIDABLY ABANDONED PATENT APPLICATION

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An Office Action was mailed in this application on April 6, 2006 and a responsive Amendment was filed on August 8, 2006. In connection with another matter, applicant's undersigned counsel had occasion on March 23, 2007 to check the status of the present application in the PTO Public PAIR system. It was then learned for the first time that a Notice of Non-Compliant Amendment apparently was mailed on October 27, 2006, which was never received by the applicant. Applicant hereby petitions: (1) for entry of the Amendment filed August 8, 2006 in that such Amendment fully complied with the applicable provisions of 37 CFR 1.121 and should have been entered, or (2) in the alternative, and conditioned upon non-granting of the petition to enter the previously filed Amendment, to revive the present patent application based upon the fact that abandonment was unavoidable in that the Notice apparently mailed October 27, 2006 was never received by the applicant.

Please charge any fees associated with this submission to Acct. No. 15-0875 (Owens-Illinois).

Petition to Enter Previously Filed Amendment

The Notice of Non-Compliant Amendment apparently mailed October 27, 2006 states that each claim was not provided with a proper status identifier, with reference being made in particular to claim 7. Claim 7 is a withdrawn non-elected claim that was amended in the Amendment. 37 CFR 1.121(c) lists the status identifiers that "must be indicated" after each claim number. The status identifier "withdrawn - currently amended" is not included among the required status identifiers.

On the other hand, 37 CFR 1.121(c)(2) states that, if a withdrawn claim is currently amended, "its status in the claim listing may be identified as "withdrawn - - currently amended" (emphasis added). Thus, the status identifier "withdrawn - - currently

amended" is permitted but not mandatory. Application claim 7 is correctly identified in the Amendment filed August 8, 2006 by the required status identifier "withdrawn." It is respectfully submitted that refusal to enter the Amendment filed August 8, 2006, which fully complies with the mandatory provisions of 37 CFR 1.121, is unjustified. Entry of such Amendment and continued prosecution of the present application are respectfully requested.

Petition to Revive Unavoidably Abandoned Patent Application

As noted above, the Notice apparently mailed October 27, 2006 was first noted on March 23, 2007 while checking the status of the present application on the PTO Public PAIR system. Undersigned counsel immediately caused a thorough search to be made of the files at the Legal Department of applicant's assignee to which such Office Action would have been directed. This search revealed that the Notice in question was not received at the Legal Department of applicant's assignee.

When an office action is received at the offices of the Legal Department of applicant's assignee, the computer system "activity window" is updated to show such receipt as the latest "activity" on the application, and the office action is entered on the front of the physical application file. Copies of these materials (and the dated transmittal to counsel) are enclosed, and show that the last entry in each record is the Amendment mailed August 4, 2006. These documents were copied and transmitted to counsel on March 26, 2007. The Notice apparently mailed October 27, 2006 was never received.


A Supplemental Amendment is enclosed identifying the status of claim 7 as "withdrawn - currently amended."

In summary, applicant petitions for entry of the Amendment filed August 8, 2006 as fully complying with all mandatory provisions of 37 CFR 1.121. In the alternative, and conditioned upon not granting the petition for entry of the previously submitted Amendment, applicant petitions for revival of the patent application that was unavoidably abandoned due to failure to receive the Notice apparently mailed October 27, 2006.

Please charge any fees associated with this submission to Acct. No. 15-0875 (Owens-Illinois).

Respectfully submitted,

REISING, ETHINGTON,
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RCC:dc
Enclosures